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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,134	07/03/2003	Zachary A. Lundin		7199

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EXAMINER

BLAKE, CAROLYN T

ART UNIT PAPER NUMBER

3724

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,134

Applicant(s)

LUNDIN, ZACHARY A. *eb*

Examiner

Carolyn T Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment received on February 3, 2005.
2. The objection to claim 1 is withdrawn in view of the amendment.
3. The text of those sections in Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

4. The abstract of the disclosure is objected to because line 5 states, "the user take a knife," while it should likely read, - -the user takes the knife- -. Correction is required. See MPEP § 608.01(b).
5. The disclosure is objected to because the phrase "the basic embodiment is modified by there included in conjunction with the guide bar means" (page 3, lines 14-15) is incoherent. Appropriate correction to permit understanding is required.

Claim Rejections - 35 USC § 102

6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (5,573,216) FIG 1.

Regarding claim 1, Kuroda discloses a cutting template (1) to be used for cutting a plurality of meat pieces from a meat section all of which are precisely similar in size and weight, said cutting template (1) comprising: a graspable handle composed of a planar forefinger abutting section (top inside of 3) and a planar thumb rest section (middle outside of 3) which are separated by a crease, said forefinger abutting section being deflected at said crease at an angle to said thumb rest section; a guide plate

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(bottom section of 3) integrally attached to said thumb rest section at an elongated lineal bend, said guide plate being elongated and extending transversely from said thumb rest section; and a first guide bar (2) attached to said guide plate directly adjacent said lineal bend and extending outwardly from said guide plate, whereby said guide plate is to be placed against an edge of the meat section with said first guide bar (2) resting on an upper surface of the meat section with the operator to move a cutting instrument around an exterior edge of said guide bar to cause severing of a first said meat piece with the procedure to then be repeated to obtain said meat piece. The Kuroda device is capable of acting as a cutting template.

Regarding claim 5, Kuroda discloses the guide bar (2) encloses an open space which is closed at one side by said guide plate and closed at the opposite side by said guide bar, during severing of a meat portion the meat portion is to be located directly adjacent said open space. During this operation, the Kuroda device would be rotated 90 degrees from its orientation in figure 1, with its right side contacting the meat surface.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (5,573,216) FIG 6.

Regarding claim 1, Kuroda discloses a cutting template (1) to be used for cutting a plurality of meat pieces from a meat section all of which are precisely similar in size and weight, said cutting template (1) comprising: a graspable handle composed of a planar forefinger abutting section (outside of 2) and a planar thumb rest section (bottom outside of 3) which are separated by a crease, said forefinger abutting section being deflected at said crease at an angle to said thumb rest section; a guide plate (middle

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section of 3) integrally attached to said thumb rest section at an elongated lineal bend, said guide plate being elongated and extending transversely from said thumb rest section; and a first guide bar (top of 3) attached to said guide plate directly adjacent said lineal bend and extending outwardly from said guide plate, whereby said guide plate is to be placed against an edge of the meat section with said first guide bar resting on an upper surface of the meat section with the operator to move a cutting instrument around an exterior edge of said guide bar to cause severing of a first said meat piece with the procedure to then be repeated to obtain said meat piece. The Kuroda device is capable of acting as a cutting template.

Regarding claim 2, Kuroda discloses the means (7) for fixing a position of said guide bar connected to said guide bar, whereby said means (7) causes said guide bar to be fixed in position on a section piece prior to severing said meat piece.

Regarding claim 3, Kuroda discloses said means (7) comprises a structure that impales the meat section.

Regarding claim 4, Kuroda discloses said means (7) comprises a row of sharply pointed saw teeth mounted on said guide bar.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda FIG 1. The angle between the forefinger and thumb section appears to be ten to fifteen degrees. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the angle depending on the desired attachment to the toolbox. This modification would not harm the device, and would still be capable of functioning as a cutting template.

Response to Amendment

10. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Applicant refers to claim 1 as a generic claim. However, this is incorrect. According to MPEP 806.04(d) "a generic claim should include no material element additional to those recited in the species claims, and must comprehend within its confines the organization covered in each of the species." In this case, claim 1 is not generic because claims 2-4 further include the further material element of "means for fixing." In addition, claims 6-10 include the further material element of "a second guide bar."

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Marx (3,052,439) and Speed et al (6,090,204) disclose devices capable of functioning as a cutting template that include a forefinger abutting section, a thumb rest section, a guide plate, and a guide bar.

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12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CB

CB

March 24, 2005



Allan N. Shoap
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